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26 May 1953

MEMORANDUM FOR: DEPUTY DIRECTOR (PLANS)

SUBJECT : Discussion of NSC 10/5 and 10/2 Procedures

REFERENCE : Memo to Mr. Wisner from [] dated
15 May 1953, subject: 10/2 Clearances

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1. This memorandum is a more detailed discussion of the matters contained in the reference and of certain other related points. The presentation is informal as it is intended as a basis for an oral discussion. It is hoped, however, that enough detail has been included to permit the use of the memorandum by itself, if desired.

1. RESCISSON OF PARAGRAPHS 2 and 3 OF NSC 10/5
(Proposed in draft of Jackson Committee report)

1. Paragraph 2 directs PSB to include provision for covert operations in its strategic concept. Rescission of this paragraph should be accomplished because:

a. With the demise of PSB, no recipient of the direction remains. Theoretically, the direction could be imposed on the Operations Coordinating Board (a new board recommended in Jackson Committee draft which will assume some PSB functions) but since the OCB is a part of the NSC structure, the direction is unnecessary.

b. The PSB for a number of reasons did not produce any strategic concept nor any broad plan for covert operations. Consequently even though the theory of Paragraph 2 was sound, it proved to be impossible of accomplishment as a practical matter.

c. The NSC is an adequate mechanism for providing a strategic concept and the CIA can obtain further guidance, when needed, through NSC papers (particularly with the OCB supporting it as recommended by the J.C. draft), normal departmental liaison and the NSC 10/2 Consultants Group.

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2. Paragraph 3, in addition to reaffirming the responsibility and authority of the DCI for the conduct of covert operations under NSC 10/2, provides for PSB approval regarding the "desirability and feasibility" of programs and of individual major projects and the "scope, pace and timing" of covert operations, and for PSB coordinating action to insure support by State and Defense of CIA operations. This paragraph should be rescinded because:

a. The procedure required to achieve approval is so cumbersome as to make operations extremely difficult. The difficulty of resolving the procedural problems has been confirmed by the fact that no effective procedure has been instituted despite great efforts in that regard and despite the fact that NSC 10/5 is twenty months old, having been approved in October, 1951.

b. The approval required of PSB members other than CIA in effect delegates to these departments responsibilities which should be assumed by CIA. (See paragraph g, below.)

c. The unavoidable mechanics of approval create serious problems of security due to the number of individuals who must be consulted before departmental approval can be accomplished. This is a very current issue because Mr. Horsey's office in State insists that approval by State is only possible if the appropriate individuals can achieve a real intimacy with the details of each project. Consequently he proposes to have elaborate presentations submitted by CIA in writing. In fairness it should be noted that only one copy will be requested and it will be closely controlled by Mr. Horsey. Aside from the security problem, however, this raises a mechanical problem of real complexity both in terms of preparing all PP and PM projects* in such detail and in terms of the time required for all such projects to be reviewed and cleared by a number of people some (or many) of whom are not familiar with the projects. Since paragraph 3 of NSC 10/5 gives some basis for Mr. Horsey's position, a further reason for rescission is indicated.

d. The approval requirement is becoming inconsistent with the DD/P merger since merged divisions and branches are now producing and will in the future produce to a greater extent projects and programs in which the FI interest is intimately connected with the PP and PM interest. Consequently approval by another department of DD/P projects and programs will more and more expose FI operations to outside scrutiny. There is of course no jurisdiction in any other department in imposing such a result. An incidental consequence of this fact may well be a less candid approach to State and Defense by CIA on the grounds that the complexity of the clearance procedure is such as to justify placing substantially all projects at least initially on

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the FI side with a resulting refusal to disclose such activity.

e. It cannot be argued that the rescission of this procedure will be any loss since it has never really operated except for a brief period last fall when a few area division programs, which had already been reviewed under NSC 10/2, were examined. At present, however, State and CIA are not in agreement as to how the 10/5 procedure should operate so that it is accurate to say that despite this brief trial no firm procedure has been established.

f. Reviewing the historical background it appears that the two major issues of the "Magnitude" paper that led to NSC 10/5 were (1) policy approval of increases in personnel and expenditures (approved in paragraph 1 of NSC 10/5 which is not to be rescinded) and (2) policy decisions as to the direction and nature of covert operations. This latter point had much to do with paragraph 3 of NSC 10/5. In my opinion, however, as indicated above, such decisions can be obtained by CIA either from the NSC (plus the OCB); through normal departmental liaison, or the 10/2 Consultants Group. Consequently this is no longer a reason for retaining paragraph 3 of NSC 10/5.

g. In addition to the reasons in the "Magnitude" paper, there is no doubt that two additional reasons existed for seeking help from the NSC in connection with covert operations. These reasons also were in large part responsible for paragraph 3 of NSC 10/5. They were, first, the desire to have both State and Defense share the responsibility for covert operations, and second, the desire to obtain insofar as possible a commitment from State and Defense to provide the support necessary for the achievement of covert operations. Both of these reasons are, of course, understandable but do not (particularly at present) support the need for paragraph 3 of NSC 10/5. In the first place the only sharing of responsibility which seems appropriate with respect to covert operations is that involved with respect to policy questions, since operational decisions should be made by CIA as the agency responsible. These policy questions as already pointed out can effectively be answered without using the approval mechanism required by NSC 10/5. In addition to the formal procedures, it should be noted that CIA being two years older the normal liaison channels can be used more efficiently than was possible when NSC 10/5 was being requested. This same fact plus a more detailed understanding of Defense procurement methods makes it possible to obtain logistical support for covert operations without the need for paragraph 3 of NSC 10/5. It should also be noted that the logistical support necessary from Defense was a far more serious problem in the spring of 1951 than it is today. Moreover such support in the last twenty months has in no case been assured as a consequence of the

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10/5 procedure, but if at all, due to either the 10/2 procedure or departmental consultation. These of course will continue to be available.

h. Finally rescission of paragraph 3 of NSC 10/5 will enable DD/P to present programs and projects to the DCI fully staffed through the 10/2 procedure or departmental consultation and therefore ready for a final concurrence or non-concurrence. As it is now, this is technically impossible since after the DCI approves there is still the question of PSB approval. Even assuming, contrary to the facts, that this was an operating procedure, it would mean that the same reviewing group who already examined the project as members of the NSC 10/2 representatives group would again review the project and report to a board, i.e., PSB of which the DCI (Having already approved) sits as a member. On any theory this is a most extraordinary procedure.

II. PROCEDURE UNDER NSC 10/2

1. The NSC 10/2 representatives group should continue, at least for a while, as presently constituted and should also continue to receive full disclosure through briefings and status reports of existing and proposed programs and projects. This disclosure, however, should not be for the purpose of obtaining approval from the representatives of State and Defense but rather to receive such suggestions as they may have and keep them up to date on PP and PM activities. These briefings and reports should, in all instances, be oral and should, of course, refrain from disclosing FI operations. Where, as suggested above, the FI and PP or PM interests are so closely interwoven as to be in effect inseparable, no disclosure should be made.

2. No program or project approval or clearance should be sought either from Defense or State. This is not required by NSC 10/2 which makes the DCI responsible for "ensuring, through designated representatives of the Secretary of State and of the Secretary of Defense, that covert operations are planned and conducted in a manner consistent with U.S. foreign and military policies and with overt activities." To conduct an operation in a manner "consistent" with certain policies does not mean that any approval or clearance is necessary. Moreover, neither State nor Defense is called upon to decide the issue of consistency. On the contrary, this decision is imposed on the DCI. Consequently, in my opinion the DCI could perfectly appropriately, if he chose, submit to State or Defense policy questions based on hypothetical facts. Having been informed of the military and foreign policy in question, the DCI could then apply such policy entirely on his own responsibility to an actual program or project. It is recognized that the foregoing is legal interpretation. This however is justifiable and, in fact, unavoidable when a legal document is the sole basic authority.

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Moreover, as shown in other points discussed, there are sound administrative reasons justifying the interpretation.

3. The following procedure for requesting policy guidance from State or Defense under NSC 10/2 is recommended for the future. Any new project plus any amendment to an existing project shall be closely analyzed when reviewed within CIA for unanswered military and foreign policy issues. When DD/P forwards a project to DCI all such issues should be separately stated. If DCI agrees that such issues exist, they should be submitted (normally in writing) to either State or Defense, as the case may be, with a request for an answer. Such questions should be supported by sufficient facts to make the issue clear (hypothetical facts can be used where security makes it desirable) and the question in each instance should be -- whether, if the planned operation were undertaken in the manner outlined, its conduct would be consistent or inconsistent with U.S. foreign policies (if State) or military policies (if Defense) and with overt activities (i.e. the language of NSC 10/2). In those cases where in the DCI's opinion no unanswered foreign or military policy issue is involved, he will decide without reference to State or Defense. Those projects, which he thus approves, will be disclosed at the next 10/2 meeting. If the State or Defense representatives at this meeting should indicate that in their opinion some unanswered military or foreign policy issue was involved, their views would be reported to DCI for his consideration. Original approval, however, will remain unaffected unless on this review he is persuaded to make a change.

4. The above procedure also would result in the various responsibilities involved being assumed by the proper department or agency, i.e. foreign policy by State, military policy by Defense and operations by CIA. Finally this approach would avoid disclosure of FI activities to unauthorized individuals because, in keeping with the provisions of NSC 10/2, the DCI would decide what matters should be referred to State or Defense.

III. ACTION PROPOSED

1. It is urged that a conference on 10/2 procedure be arranged as soon as possible between CIA and State. This meeting should be high level and small so that incidental issues can be avoided and decisions reached. There is no need to include the 10/5 problems since the Jackson Committee resolves these insofar as presently possible.

2. Although it is a most unusual situation which calls for an inflexible position, I am convinced that this is that kind of a case and relatively little give or take is possible. CIA is "a big boy" now and should be treated as

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such. Unless the 10/2 procedures can be clarified and sharply defined with an elimination of present ambiguities and difficulties, CIA operations must inevitably suffer.

3. If State's representative is persuaded of the accuracy of the above, other interested offices in State should be notified in writing of the decision. If he is not so persuaded, I think that CIA's only course will be to appeal the matter first through the proper higher echelons of State and the, if necessary, to the NSC or one of its sub-boards, i.e. General Cutler's planning board or the OCB if, as, and when created.

4. As soon as agreement is reached with State, similar discussions should be held with appropriate representatives of Defense.

[Redacted Signature]

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Chief

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